

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

RODRICK ELLIOTT,

Plaintiff,

v.

GREGG COUNTY SHERIFF OFFICE,

Defendant.

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CIVIL ACTION NO. 2:19-CV-00394-JRG

ORDER

Plaintiff Rodrick Elliott (“Plaintiff”), an inmate formerly confined at the Gregg County Jail proceeding *pro se*, filed the above-captioned case pursuant to 42 U.S.C. § 1983. (Dkt. No. 1.) The case was referred to United States Magistrate Judge Roy S. Payne for findings of fact, conclusions of law, and recommendations for the disposition of the case.

On January 6, 2023, Magistrate Judge Payne issued a Report and Recommendation recommending that Plaintiff’s suit be dismissed without prejudice for Plaintiff’s failure to prosecute his own case. (Dkt. No. 5 at 2–3.) The Report and Recommendation further recommended that the statute of limitations be suspended for a period of sixty days from the date of Final Judgment. (*Id.* at 3 (citing *Campbell v. Wilkinson*, 988 F.3d 798, 801 n.1 (5th Cir. 2021)).)

A copy of this Report and Recommendation was mailed with an acknowledgement card to Plaintiff’s last-known address. The docket reflects that the mail was returned as “undeliverable,” with a notation that Plaintiff “is not at this facility.” (Dkt. No. 7.) To date, no objections to the Report and Recommendation have been filed and Plaintiff has not communicated with the Court.


As no objections have been filed to the Report and Recommendation, Plaintiff is barred from *de novo* review by the United States District Judge on those findings, conclusions, and

recommendations and, except upon grounds of plain error, Plaintiff is barred from appellate review of the factual findings and legal conclusions accepted and adopted by the district court. *Douglass v. United Services Auto. Ass'n*, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*).

The Court has reviewed the pleadings in this case and the Report and Recommendation of the Magistrate Judge. Upon such review, the Court has determined that the Report and Recommendation of the Magistrate Judge is correct. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir.), *cert. denied*, 492 U.S. 918, 109 S. Ct. 3243 (1989) (holding that where no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law.").

Accordingly, it is **ORDERED** that the Report of the United States Magistrate Judge (Dkt. No. 5), is **ADOPTED** as the opinion of the Court. It is **FURTHER ORDERED** that the above-captioned case is **DISMISSED WITHOUT PREJUDICE** for the failure to prosecute. The statute of limitations is hereby **SUSPENDED** for a period of sixty days from the date of Final Judgment. All pending requests for relief in the above-captioned case not explicitly granted herein are **DENIED AS MOOT**.

So ORDERED and SIGNED this 1st day of February, 2023.



RODNEY GILSTRAP
UNITED STATES DISTRICT JUDGE